

by a tribe exercising its concurrent jurisdiction pursuant to §163.29(j) of this part.

(i) The Secretary may delegate by written agreement or contract, responsibility for detection and investigation of forest trespass.

(j) Indian tribes that adopt the regulations set forth in this section, conformed as necessary to tribal law, shall have concurrent civil jurisdiction to enforce 25 U.S.C. 3106 and this section against any person.

(1) The Secretary shall acknowledge said concurrent civil jurisdiction over trespass, upon:

(i) Receipt of a formal tribal resolution documenting the tribe's adoption of this section; and

(ii) Notification of the ability of the tribal court system to properly adjudicate forest trespass cases, including a statement that the tribal court will enforce the Indian Civil Rights Act or a tribal civil rights law that contains provisions for due process and equal protection that are similar to or stronger than those contained in the Indian Civil Rights Act.

(2) Where an Indian tribe has acquired concurrent civil jurisdiction over trespass cases as set forth in §163.29(j)(1) of this part, the Secretary and tribe's authorized representatives will be jointly responsible to coordinate prosecution of trespass actions. The Secretary shall, upon timely request of the tribe, defer prosecution of forest trespasses to the tribe. Where said deferral is not requested, the designated Bureau of Indian Affairs forestry trespass official shall coordinate with the authorized forest trespass official of each tribe the exercise of concurrent tribal and Federal trespass jurisdiction as to each trespass. Such officials shall review each case, determine in which forums to recommend bringing an action, and promptly provide their recommendation to the Federal officials responsible for initiating and prosecuting forest trespass cases. Where an Indian tribe has acquired concurrent civil jurisdiction, but does not request deferral of prosecution, the federal officials responsible for initiating and prosecuting such cases may file and prosecute the action in the tribal court or forum.

(3) The Secretary may rescind an Indian tribe's concurrent civil jurisdiction over trespass cases under this regulation if the Secretary or a court of competent jurisdiction determines that the tribal court has not adhered to the due process or equal protection requirements of the Indian Civil Rights Act. If it is determined that said rescission is justified, the Secretary shall provide written Notice of the rescission, including the findings justifying the rescission and the steps needed to remedy the violations causing the rescission, to the chief judge of the tribal judiciary or other authorized tribal official should there be no chief judge. If said steps are not taken within 60 days, the Secretary's rescission of concurrent civil jurisdiction shall become final. The affected tribe(s) may appeal a Notice of Rescission under part 2 of title 25.

(4) Nothing shall be construed to prohibit or in any way diminish the authority of a tribe to prosecute individuals under its criminal or civil trespass laws where it has jurisdiction over those individuals.

§ 163.30 Revocable road use and construction permits for removal of commercial forest products.

(a) In accordance with 25 U.S.C. 415 as amended, the Secretary may request tribes and/or other beneficial owners to sign revocable permits designating the Secretary as agent for the landowner and empowering him or her to issue revocable road use and construction permits to users for the purpose of removing forest products.

(b) When a majority of trust interest in a tract has consented, the Secretary may issue revocable road use and construction permits for removal of forest products over and across such land. In addition, the Secretary may act for individual owners when:

(1) One or more of the individual owner(s) of the land or of an interest therein is a minor or a person non compos mentis, and the Secretary finds that such grant, in total or for an interest therein, will cause no substantial injury to the land or the owner, which cannot be adequately compensated for by monetary damages;

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(2) The whereabouts of the owner(s) of the land or those with an interest therein are unknown so long as the majority of owner(s) of interests whose whereabouts are known, consent to the grant;

(3) The heirs or devisees of a deceased owner of the land or interest have not been determined, and the Secretary finds the grant will cause no substantial injury to the land or any land owner; or

(4) The owners of interests in the land are so numerous that the Secretary finds it would be impractical to obtain the consent of the majority and finds that such grant in total or an interest therein will cause no substantial injury to the land or the owner(s), that cannot be adequately compensated for by monetary damages.

(c) Nothing in this section shall preclude acquisition of rights-of-way over Indian lands, under 25 CFR part 169, or conflict with provisions of that part.

§ 163.31 Insect and disease control.

(a) The Secretary is authorized to protect and preserve Indian forest land from disease or insects (Sept. 20, 1922, Ch. 349, 42 Stat. 857). The Secretary shall consult with the authorized tribal representatives and beneficial owners of Indian forest land concerning control actions.

(b) The Secretary is responsible for controlling and mitigating harmful effects of insects and diseases on Indian forest land and will coordinate control actions with the Secretary of Agriculture in accordance with 92 Stat. 365, 16 U.S.C. 2101.

§ 163.32 Forest development.

Forest development pertains to forest land management activities undertaken to improve the sustainable productivity of commercial Indian forest land. The program shall consist of reforestation, timber stand improvement projects, and related investments to enhance productivity of commercial forest land with emphasis on accomplishing on-the-ground projects. Forest development funds will be used to reestablish, maintain, and/or improve growth of commercial timber species and control stocking levels on commercial forest land. Forest development

activities will be planned and executed using benefit-cost analyses as one of the determinants in establishing priorities for project funding.

§ 163.33 Administrative appeals.

Any challenge to action under 25 CFR part 163 taken by an approving officer or subordinate official exercising delegated authority from the Secretary shall be exclusively through administrative appeal or as provided in the Indian Self-Determination and Education Assistance Act (Pub. L. 93-638, as amended). Such appeal(s) shall be filed in accordance with the provisions of 25 CFR part 2, Appeals from administrative actions, except that an appeal of any action under part 163 of this title shall:

(a) Not stay any action unless otherwise directed by the Secretary; and

(b) Define “interested party” for purposes of bringing such an appeal or participating in such an appeal as any person whose own direct economic interest is adversely affected by an action or decision.

§ 163.34 Environmental compliance.

Actions taken by the Secretary under the regulations in this part must comply with the National Environmental Policy Act of 1969, applicable Council on Environmental Quality Regulations, and tribal laws and regulations.

§ 163.35 Indian forest land assistance account.

(a) At the request of a tribe’s authorized representatives, the Secretary may establish tribal-specific forest land assistance accounts within the trust fund system.

(b) Deposits shall be credited either to forest transportation or to general forest land management accounts.

(c) Deposits into the accounts may include:

(1) Funds from non-federal sources related to activities on or for the Indian forest land of such tribe’s reservation;

(2) Donations or contributions;

(3) Unobligated forestry appropriations for the tribe;

(4) User fees; and